

# **EXHIBIT 25**



# 'I thought I was going to die there.' What it's like to live with rising temperatures in prison

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One hot August day in 2011, Marci Marie Simmons watched an egg slowly fry on the concrete floor of her unairconditioned unit at Lucile Plane State Jail in Dayton, Texas.

That same summer, Dale was incarcerated at the H. H. Coffield Unit in Tennessee Colony, Texas. Dale, who asked to be identified by his middle name because he is still serving parole, would soak the floors of his cell with water so he had a cooler place to sleep, wearing nothing but boxers and laying "as still as possible," he said. His bunk, made of metal, was too hot to touch.

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When Hayley Barna was incarcerated in a Texas prison in 2020, the scorching summer temperatures caused a migraine that she remembers lasting three days, accompanied by dizzy spells and lightheadedness. The heat in the concrete building, she said, was brutal.

"I thought I was going to die. When you're sitting in a room that's that hot with no water at times and you're just pouring sweat ... at times I really thought I was going to die there," Barna, 29, told the PBS NewsHour.

A new report released last month by Texas A&M University details these and other consequences of extreme heat in Texas prisons, where a lack of air conditioning poses dangerous conditions for those incarcerated as well as staff.

It's a problem that is not limited to just the state — or only the American southwest — and some experts and advocates say it is likely to worsen as the country experiences more extreme temperatures.

The Texas A&M report, based on analysis of surveys from 309 individuals incarcerated between 2018 and 2020, found that the prisons at the time did not have enough air conditioned beds for all of the people who were identified as "heat sensitive" and "designated as 'Cool Bed Priority Offenders' (CBP), meaning they are prioritized to get into an air-conditioned housing unit."

The people considered by the Texas Department of Criminal Justice (TDCJ) to be "cool bed priority offenders" are generally at the highest risk for heat sensitivity, and often have heart disease, mental health disorders, Alzheimer's disease or developmental disabilities. People 65 or older with certain prescriptions or medical conditions can also be prioritized for air conditioned beds. The report notes at the time, 22 percent of those with CBP status didn't have access to air conditioned beds, though TDCJ said that currently the population that has scored high on heat sensitivity now has access to cooled beds.

While the state prison system has implemented heat mitigation measures, they're inconsistently followed, according to the report. Twenty-three heat-related deaths were recorded between 1998 and 2012, according to the study and the TDCJ. While no such deaths have been recorded since 2012, according to the department, that doesn't mean heat hasn't been an indirect cause of death in prisons, said Julie Skarha, a researcher affiliated with the Brown University Department of Epidemiology who studies extreme heat in prisons and jails. And heat can still be associated with many other serious illnesses, even if it doesn't result in death, Skarha said.

It's not clear how many prisons and jails across the country have air conditioning, in part because the area isn't well-studied or monitored, Skarha said. The presence of AC doesn't guarantee that it will always work well, or cover the entire building, she added.

J. Carlee Purdum, research assistant professor at the Hazard Reduction and Recovery Center at A&M University and lead author of the study, believes the findings could not only be helpful in defining the issue in Texas, but in other states as well.

"Our findings are going to be relevant to [other states] because they're working to reduce heat illness in the same way that Texas is working to reduce heat illness," Purdum said.

There were just more than 119,000 people incarcerated in Texas as of June 2022, according to a Texas Department of Criminal Justice spokesperson. The state has been working to increase the number of available cooled beds over the past several years, TDCJ told the PBS NewsHour by email. Since 2018, TDCJ has added air conditioning to 3,598 beds and expects to add nearly 6,000 more by the end of 2023, a project that will cost an estimated \$12 million. **Texas legislation introduced in 2021** calls for air conditioning in all facilities by 2029, but only if lawmakers can put funding toward the overall cost, which TDCJ estimates at \$1 billion.

A spokesperson for TDCJ said there are approximately 41,000 cooled beds across the state's facilities, and more than 12,000 people the department has identified as heat sensitive who are assigned to cooled beds. The spokesperson said she didn't have information readily available on whether all 41,000 beds were filled, but did reiterate that "those who are heat sensitive have a cooled bed."

Purdum said that since some facilities are built to hold different incarcerated groups with different security needs, all of these beds are likely not always occupied.

For study co-author Amite Dominick, founder and president of **Texas Prisons Community Advocates**, which supports incarcerated people and their families, the discovery that many people incarcerated in Texas prisons lack access to air conditioning was personal. When her ex-husband became incarcerated in 2015, she began to understand that heat problems can easily lead to other issues that plague prisons and incarcerated people.

"I could no longer separate out heat and medical, because this heat was impacting the medical system so much, from things as small as allergies, asthma to seizures and psychotropic medications," she said. Dominick added that the heat levels in prisons can also have ripple effects. In 2016, a federal judge in **Houston ordered the Texas prison system** to provide safe drinking water to inmates after he said that the arsenic levels in the Wallace Pack Unit's well water "violates contemporary standards of decency." The motion to bring this before a judge was brought by a group of incarcerated people who were suing the state on the grounds that the lack of air conditioning during the hot summer months is a form of "cruel and unusual punishment."

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For some formerly incarcerated people, speaking about prison conditions is a way to help raise awareness. One of them is Simmons, who speaks often about her incarceration **on TikTok**, where she has more than 228,000 followers.

One July day in 2020, just before Simmons made parole, she said that she was able to look at a thermometer that staff used to check the temperature at the facility, though she said that she believed incarcerated people weren't supposed to be able to see the temperature readings. It was 136 degrees, she said. The thermometer was near the ceiling, she said, and heat rises, meaning it could have been warmer than what the inmates were experiencing.

"But even if it was 10 or even 15 degrees less on the floor where we were ... it's still very rough conditions," she said.

Right now, the **Texas Commission on Jail Standards**, which oversees county jails, but not state-run or private prisons, requires that temperatures in facilities stay **between 65 and 85 degrees**. If a county jail violates those standards, TCJS has the authority to move incarcerated people out of the facilities and potentially shut things down entirely.

TDCJ has no such standard temperature range requirement across facilities, but does have some rules around how to handle the heat. According to the A&M study, the TDCJ changed some of its policies after **multiple lawsuits in 2018**. The result was a requirement to house vulnerable people in air-conditioned beds and implementation of new heat-mitigation policies for all incarcerated people. Wallace Pack prison, the center of some of the 2018 lawsuits, now has the maximum temperature of 88 degrees, but there is still no universal temperature standard across all facilities. Purdum believes adding such a requirement would push the TDCJ to more quickly make changes in those facilities as well.

## **'It takes a toll'**

**Hyperthermia**, when the body's temperature is abnormally high, can be deadly for humans.

Thirty of Texas' 100 correctional facilities are fully air conditioned, the A&M report says. Forty-nine are partially air conditioned, meaning there are some beds with AC and some without.

Twenty-one have no air conditioning at all, though the TDCJ said all prisons have "air conditioning in the administrative, education, and medical areas," according to the A&M report.

TDCJ policy requires staff to "maintain a 'Medical Heat Restriction List' for all incarcerated people who are susceptible to temperature-related illnesses," the A&M report notes.

Staff should screen incarcerated people to determine if they're more vulnerable to heat, conduct a full medical exam and then perform wellness checks on those people during security rounds, according to TDCJ policy.

In 1998, at least 16 people incarcerated in Texas prisons experienced hyperthermia symptoms, and three died, according to a **2014 report by the Human Rights Clinic of the University of Texas School of Law**. That report found that the Texas Department of Criminal Justice was "violating the human and constitutional rights of inmates in Texas by exposing them to dangerously high temperatures and extreme heat conditions." Included in the report is a handwritten temperature log from July 2011 noting outside air temperatures reached at least 114 degrees Fahrenheit, with a heat index of 150 degrees.

**According to a lawsuit** filed in 2014, the body temperatures of nine men who died between 2007 and 2012 were 105 degrees Fahrenheit or hotter at the times of their deaths. One man, 45-year-old Rodney Adams, who died at Texas' Gurney Unit in August 2012, had a body temperature of 109.9 degrees.

Adams was on psychotropic medication, according to the lawsuit, which in 2017 was taken by more than 30,000 people across TDCJ facilities, but one important side effect is that it can limit the body's ability to regulate temperature.

Dale, 41, told the NewsHour that the blood pressure medication he took while incarcerated made him **potentially vulnerable to heat illnesses**.

But the solution that prison staff came up with didn't really solve the problem, he said. The prison where he was incarcerated didn't have air conditioning in the housing areas, and he was told that he would have to move bunks.

"So they thought, 'Oh, we'll move you from the second floor to the first floor because it's hotter up top. I mean, come on. Don't get me wrong. I guess that's better than nothing,'" Dale said.

"You know, maybe instead of 108 degrees it's 106 degrees," he said. Dale said he never experienced severe symptoms from the heat.

"I was pretty young and healthy at the time, but I mean, it doesn't matter. Even [in my] early 30s and a healthy former athlete, [the heat] takes a toll," he said.

## How heat affects the body

TDCJ processed more than 5,700 heat-related grievances from incarcerated people between September 2020 and August 2021. When the department receives a grievance, it investigates to "verify and ensure that all temperature mitigation measures ... such as access to respite areas, cold showers, ice water, and fans are being followed," a department spokesperson said via email.

On the more mild end of what a person could experience when exposed to high heat is heat exhaustion, Skarha said. Symptoms can include muscle cramps, headaches, nausea and dizziness. At the severe end is **heatstroke**, the most extreme form of hyperthermia, which can cause death. In the past 20 years, epidemiologists have developed methods to determine whether a death might have been prevented without an exposure to extreme heat, Skarha said.

"Within epidemiology, increased heart failures are associated with heat. Suicides increase, we see liver failures, other types of hospitalizations," Skarha said.

High temperatures can especially hit a prison's aging population hard, Purdum said, as well as incarcerated people who have a disability or chronic illness.

She said those with asthma and cardiac issues made up a significant proportion of the people who wrote in during the surveys and shared their concerns about the heat affecting their chronic condition.

And though mortality may be rare in prisons and jails, there can be long-term consequences. Most incarcerated people return to their communities, Skarha said, and the long-term effects of incarceration, including the effect prolonged heat can have on the body, haven't been well-studied.

"People who are incarcerated already tend to come from underserved communities with complicated health needs, and these temperatures are going to affect and impact those health needs," Skarha said.

Hayley Barna was incarcerated for a year and remembered the summer of 2020 heat spell as unbearable. Barna now works for a water remediation company after leaving incarceration, said she thinks no one should have to endure the conditions she faced.

"You know, we're human. We make mistakes. And that's supposed to be a situation where you teach us, or help us to learn right from wrong, right? And then re-integrate us into the public," Barna said. "But it's not a torture mechanism. That's not at all what it should be, and unfortunately, it just feels that way."

## Old buildings, rising temperatures

Purdum said that some of Texas' 70 facilities with partial or no air conditioning were built more than 100 years ago and just weren't designed with that technology and today's heat in mind.

In the time these facilities were built, Purdum said temperature control systems were considered a luxury, especially for incarcerated people. But now, more and more people consider air conditioning a necessity. Purdum believes, both in everyday homes and in prisons, as temperatures consistently **rise due to climate change**.

More than 88 percent of U.S. homes use air conditioning, according to a **2020 survey from the Department of Energy**. AC varies **by region**, with parts of the West, such as **the Pacific region** of Alaska, California, Hawaii, Oregon and Washington, having as little as 68 percent of homes air conditioned. New England also has a low prevalence, with about 84 percent of homes equipped with air conditioning.

Skarha attributes New England's lower AC usage to both the age of the buildings and the region's propensities for somewhat milder summers than much of the South and parts of the West. Skarha said that's likely **the case for prisons and jails in New England** as well.

During last summer's heatwave in the Pacific Northwest, nearly 100 people incarcerated in Washington prisons filed grievances about the heat, **High Country News reported**. The state's Department of Corrections told the publication "that nine incarcerated people received medical attention for heat-related emergencies," and two were hospitalized during the heatwave. In one facility, the air conditioning failed; others didn't have AC to begin with.

Texas has already seen **multiple weeks of triple digit temperatures**, and summers across the country are **getting longer and hotter**.

**READ MORE: How poor dental care in prison makes reentry harder for formerly incarcerated people**

But since many prisons weren't designed with such systems in mind, Purdum expects it would be an "enormously costly" endeavor to retrofit, if it's even possible.

"There is a concern of how effective it will be because you have some units that are over 100 years old," she said.

Some states are still working to install AC. The head of Mississippi's department of correction **said the department is working to air condition its state prisons**, beginning with one of its most notoriously hot, **Parchman prison**.

That's in large part because the Department of Justice **sanctioned the prison** in April for its inhumane conditions in its restrictive housing units. **In its report**, the DOJ said the highest temperature recorded in one of the units was a "dangerously hot 145.1 degrees."

Mississippi Department of Correction Commissioner Burl Cain **told Jackson, Mississippi's WLBT** last month that he expects every state prison to have air conditioning by next summer. The state is using federal COVID-19 relief funds in addition to money from its corrections department budget, and Cain said the hope is that AC will help attract and retain staff, who also have to work in extreme heat.

In the numerous complexes without air conditioning, there are alternative methods of keeping everyone cool that are often logistically difficult.

Formerly incarcerated people who spoke with the NewsHour said staff bring in coolers full of water, but rarely frequently enough for people to stay hydrated.

TDJC said via email that, within facilities with no air conditioning, they often implement fans to circulate the air and install exhaust fans to remove hot air from buildings.

But Purdum said such methods are often not sufficient since they only circulate the already hot air in a room. TPCA **has a program** to send specialty cooling towels to incarcerated people in Texas facilities, Dominick said, beginning with poorer people.

## Understaffing causes problems with care

Purdum attributes part of the issue to a general staffing problem happening in the prison system.

"Staffing issues have definitely made an already very, very dangerous situation even more dangerous, if you can imagine," she said.

She said that Texas prisons have trouble both hiring and keeping existing staff, which makes it difficult to maintain consistent care for the more than 119,000 incarcerated people in the state.

When it comes to managing high temperatures, Purdum said prison staff are responsible for doing wellness checks on individuals, escorting people to ventilated rest areas and showers, refilling water coolers and providing ice and water to cells on top of their regular guard duties.

"It's an enormous, enormous burden on staff," Purdum said. "And while they're also having to maintain their own health and watch out for their own safety."

But between the ill-equipped buildings and low staff, Purdum believes the best way to improve conditions would be to dramatically decrease the state's prison population. Overcrowding has been widely shown to **increase overall violence, unsanitary conditions and mental health problems** as prison staff and resources are stretched thin taking care of a high population count.

"I believe there's broad support for doing that and research and data that supports that," she said.

The A&M study found that if current conditions aren't dramatically improved through temperature regulation, a lowering of the prison population and increased staffing, incarcerated people in Texas will continue to suffer.

"This could kill them, but if it doesn't, it will certainly degrade their health over time," the study concludes.

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## **A Brief But Spectacular take on women with incarcerated loved ones**

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